

Serial No. 09/982,126

supported frame about a shaft axis and adapted to be rotated; a friction enhancer comprising a tubular member adapted to be removably and slideably received on the drive shaft parallel to the shaft axis, with the tubular member including an outer periphery having noncircular cross sections perpendicular to the shaft axis, with the tubular member adapted to be prevented from rotating relative to the drive shaft; an axle assembly pivotably mounted to the frame about an axle axis parallel to the shaft axis; at least one wheel rotatably mounted to the axle assembly about a wheel axis spaced from and parallel to the shaft axis and axle axis, with the axle assembly being pivotable between a transport position and a working position, with the wheel having an outer periphery spaced from the drive shaft in the transport position and engaging the friction enhancer received on the drive shaft in the working position, with the wheel being driven by the drive shaft when rotated.

#### **REMARKS**

Examiner Novosad has rejected the originally filed claims 1-6 and 24 of the present application under 35 USC § 102 and 103. For the reasons which follow, applicants respectfully traverse this rejection of the Examiner. The applicants do, however, wish to extend appreciation to Examiner Novosad for the quite detailed review of the claims of the present invention leading to the finding of patentable subject matter of the originally filed claims of the present application and an indication of the allowance of claims 7-18, 26-30 and 32 and of the allowability of claims 22, 23, 25 and 31 if rewritten.

The undersigned also wishes to extend appreciation to Examiner Novosad for the courtesies extended in a telephonic interview on March 24, 2003. The substance of that telephonic interview is hereby confirmed and expanded upon.

Claims 22 and 31 have been amended in a manner to overcome the rejection under 35 U.S.C. § 112. Favorable reconsideration is respectfully requested.

Lee teaches a drive system for a toy car where the axle of the wheel is driven. Examiner Novosad agreed that Lee did not disclose the present invention, but indicated that "outer periphery" of claim 1 as originally filed could be broadly interpreted to read on the hub of the wheel 16 of Lee. While disagreeing with this interpretation, claim 1 has been amended to further define the present invention in a manner to prevent that interpretation and in a manner which the Examiner agreed defined over Lee. It is respectfully submitted that the rejections of claim 1 and

Serial No. 09/982,126

the claims which depend therefrom have been overcome. Favorable reconsideration is respectfully requested.

Although claims 2-6 further define the present invention and are believed to further distinguish the present invention over the prior art, presenting arguments directed to their independent allowability did not seem necessary. However, in the event that the allowability of claim 1 is called into question, applicants specifically reserve the right to present those arguments at that time.

Examiner Novosad agreed that although electronic control device 72 of Piaget was U-shaped, it was not pivotally mounted and did not engage the legs of the U-shaped handlebar. Similarly, controls 66 or 166 of Hillard did not engage the legs of the U-shaped handlebar. Likewise, controls 588', 756, 648', 762, 722, 648, 588, 536, 1080, and 1084 of Laditka did not engage the legs of the U-shaped handlebar 528 and 1014. Examiner Novosad agreed that claim 24 as filed defined over the relied upon prior art and that the rejections of claim 24 had been overcome. Favorable reconsideration is respectfully requested.

The French reference was cited in the present application as it was cited in assignee's prior patents 5,454,433 and 5,571,252. As set forth in MPEP § 609, it is assumed that the Examiner considered the French patent "insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches". As can be clearly seen from the drawings themselves that this French reference relates to a wheeled device for driving item 5 into the ground (similar to cut-off device 14 of Patents 5,454,433 and 5,571,252), it is respectfully submitted that consideration that the Examiner has already performed (in the same manner as was done by Examiner Novosad for the cited German reference) should be made of record in this application also.

The Examiner has cited the Patents listed in NOTICE OF REFERENCES CITED as I-N of page 1, A-M of page 2 and A of page 3 of Form PTO-892 and indicated consideration over the prior art cited by applicants. By the lack of application of these references and others like them within the classes or subclasses searched, the Examiner apparently recognizes the clear patentability of the present invention over any of these references.

Therefore, since the claims of the present application have been shown to include limitations directed to the features of applicant's earthworking machine which are neither shown,

Serial No. 09/982,126

described, taught, nor alluded to in any of the references cited by the Examiner, and by the applicants, whether those references are taken singly or in any combination, the Examiner is requested to allow claims 1-18 and 22-32, as amended, of the present application and to pass this application to issue.

Respectfully submitted,

Thomas E. Isaman et al.

Dated: March 24, 2003

By: 

Alan D. Kamrath (Reg. No. 28,227)  
RIDER BENNETT EGAN & ARUNDEL  
333 South Seventh Street, Suite 2000  
Minneapolis, MN 55402  
Tel: (612) 340-8925  
Fax: (612) 340-7900

Serial No. 09/982,126

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**  
**IN THE CLAIMS**

Please amend claim 1 as follows:

1. For a friction drive in an earthworking machine including a shaft rotatable about an axis and engaging [the] an outer periphery of a wheel, with the outer periphery of the wheel engaging the earth and propelling the earthworking machine on the earth, a friction enhancer comprising a tubular member adapted to be removably and slideably received on the shaft parallel to the axis, with the tubular member including an outer periphery having noncircular cross sections perpendicular to the axis, with the tubular member adapted to be prevented from rotating relative to the shaft.

Please amend claim 22 as follows:

22. Connection comprising, in combination: a first tube having an inner periphery and an outer periphery; a first aperture formed in the first tube between the inner and outer peripheries; a second tube having an outer periphery of a size for slideable receipt in the inner periphery of the first tube; a bore formed in the second tube aligned with the [opening] first aperture in the first tube when the second tube is slideably received in the first tube; a lock plate held relative to the outer periphery of the first tube to define a gap therebetween; a second aperture formed in the lock plate; a threaded lock extending through the first and second openings, with the threaded lock being threadably received in one of the first tube and the lock plate; and a pin located in the gap and extending radially from the lock, with the pin preventing the lock from being threaded out of the said one of the first tube and the lock plate, with the lock being insertable into the bore to prevent sliding of the second tube relative to the first tube and being removable from the bore to allow sliding of the second tube relative to the first tube.

Please amend claim 31 as follows:

31. Assembly for an earthworking machine comprising, in combination: a handlebar being generally U-shaped and including first and second legs extending from opposite sides of a center; a mast extending from the center and including a first linear portion having a lower end and an upper end, with the center being spaced from the upper end and extending generally perpendicular to the first linear portion; and a handlebar mount, with the first linear portion being slideably connected generally vertically to the handlebar mount with the first and second legs

Serial No. 09/982,126

extending generally horizontally rearward and the center portion extending generally horizontally in [the] a working position, with the first [liner] linear portion being slideably connected at an acute angle to vertical to the handlebar mount with the first and second legs extending forward and on opposite sides of the earthworking machine in [the] a storage position.

Please amend claim 32 as follows:

32. Earthworking machine comprising, in combination: a movably supported frame comprising first and second planar side plates, with each side plate having an upper edge and a back edge, a frame plate bent generally perpendicular to the upper edge of one of the side plates, with the frame plate having a free edge welded to the upper edge of the other of the side plates, and an end plate bent generally perpendicular to the back edge of one of the side plates, with the end plate having a free edge welded to the back edge of the other of the side plate, with the plates being interconnected together in a three dimensional configuration without fasteners and with the first and second side plates, the frame plate, and the end plate being formed from two planar elements; a U-shaped handlebar including first and second legs extending from opposite sides of a center; a mast extending from the center and including a first linear portion having a lower end and an upper end, with the center being spaced from the upper end and extending generally perpendicular to the first linear portion, with the movably supported frame including a handlebar mount, with the mast of the U-shaped handlebar being removably connected to the handlebar mount in a working position and in a storage position, with the U-shaped handlebar in the working position being positioned for gripping by an operator while operating the earthworking machine, and with the mast in the storage position being positioned over the earthworking machine for lifting and hauling, with the first and second legs and the center extending generally horizontally above the earth and with the first and second legs extending behind the center in the working position; a U-shaped control including first and second leg portions extending from opposite sides of a center portion, with the U-shaped control having a shape and size corresponding to the U-shaped handlebar, with the center portion being pivotably mounted relative to the U-shaped handlebar about a control axis spaced in front of and above the center of the U-shaped handlebar, with the U-shaped control being pivotal between an unactuated position with the leg portions extending at an acute angle upward relative to the legs of the U-shaped handlebar and an actuated position with the leg portions engaging the legs of the U-shaped handlebar, with the first linear portion being slideably connected generally vertically to the

Serial No. 09/982,126

handlebar mount with the first and second legs extending generally horizontally rearward and the center portion extending generally horizontally in the working position, with the first linear portion being slideably connected at an acute angle to vertical to the handlebar mount with the first and second legs extending forward and on opposite sides of the earthworking machine in the storage position, with the mast having an inner periphery and an outer periphery; a first aperture formed in the mast between the inner and outer peripheries, with the first linear portion having an outer periphery of a size for slideable receipt in the inner periphery of the mast; a bore formed in the first linear portion aligned with the [opening] first aperture in the mast when the first linear portion is slideably received in the mast; a lock plate held relative to the outer periphery of the mast to define a gap therebetween; a second aperture formed in the lock plate; a threaded lock extending through the first and second openings, with the threaded lock being threadably received in one of the mast and the lock plate; a pin located in the gap and extending radially from the threaded lock, with the pin preventing the threaded lock from being threaded out of the said one of the mast and the lock plate, with the threaded lock being insertable into the bore to prevent sliding of the first linear portion relative to the mast and being removable from the bore to allow sliding of the first linear portion relative to the mast; a drive shaft rotatably mounted to the movably supported frame about a shaft axis and adapted to be rotated; a friction enhancer comprising a tubular member adapted to be removably and slideably received on the drive shaft parallel to the shaft axis, with the tubular member including an outer periphery having noncircular cross sections perpendicular to the shaft axis, with the tubular member adapted to be prevented from rotating relative to the drive shaft; an axle assembly pivotably mounted to the frame about an axle axis parallel to the shaft axis; at least one wheel rotatably mounted to the axle assembly about a wheel axis spaced from and parallel to the shaft axis and axle axis, with the axle assembly being pivotable between a transport position and a working position, with the wheel having an outer periphery spaced from the drive shaft in the transport position and engaging the friction enhancer received on the drive shaft in the working position, with the wheel being driven by the drive shaft when rotated.